



**Department of Labor
Office of Labor-Management Standards**

29 CFR Parts 402, 403, and 408

RIN 1245-AA10

Labor Organization Annual Financial Reports: LM Form Revisions & Proposed Rule Change

Public Submission on behalf of Yankee Institute in support of proposed improvements to Form LM-2 and the establishment of an LM-2 Long Form (LF) and advocating for changes to increase transparency.

Yankee Institute is a think tank that develops and advances common sense public policy solutions in Connecticut. We appreciate having the opportunity to comment on the proposed rule changes and reforms. The data set forth in this testimony accounts for the fact that not all cases have been fully adjudicated.

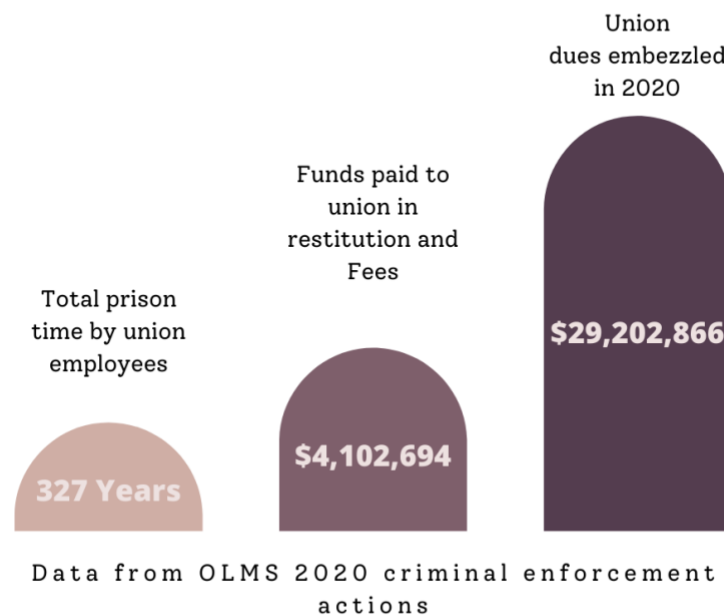
Sound public financial reporting is indispensable to maintaining confidence in the institution of organized labor. It breeds transparency, which safeguards the integrity and accountability elected union leaders owe their rank-and-file members. Those members have the right to know how their hard-earned money is being spent; what's more, union members and taxpayers share a bona fide interest in discouraging civil and criminal violations. In the end, after all, union members are often directly impacted by such violations, and taxpayers bear the burden of the high cost of the court proceedings required to prosecute them.

Truth in accounting should not be reserved exclusively for government agencies. And union members deserve to be able to review documents free from intimidation, coercion and unnecessary layers of bureaucracy designed only to obscure financial reporting. Unions must be compelled to produce financial reports that are understandable, reliable, transparent -- and truthful

under the penalty of prosecution. This is the only way to effectuate the intent of the regulations in the Federal Register, empowering unions and standing as a “strong deterrent, to provide a means of combatting improper practices, and to better regulate their own affairs.”

In 2020 alone, 86 of the enforcement actions pursued by the Department of Labor resulted in jail time, home confinement, probation, fines, assessments and restitution payments. These court cases, focusing on unscrupulous union leaders, featured charges ranging from wire fraud to embezzlement, falsification of union records and money laundering. This sorry record only underscores the need for more oversight and transparency.

2020 Department of Labor Criminal Enforcement Actions



Nor do the 2020 enforcement actions even account for non-criminal matters -- such as misuse of funds and stark conflicts of interest -- that constitute clear ethical violations. These actions are breaches of fiduciary duty, which betray the trust of union members.

Each year, unethical behavior and unreported wrongdoing likewise occurs, either going unnoticed, ignored by complicit board members or settled by repayment to the union. We have also found instances of union leaders agreeing not to run again for office or else furtively resigning their positions in order to avoid of public scrutiny and escape the gaze of law enforcement and/or the Department of Labor.

These situations bespeak the need for more transparency, not less. There is an unequivocal need at least to maintain the \$250,000 reporting threshold -- if anything, the enforcement actions of 2020 certainly demonstrate the need for more reporting, not less! In fact, it is our recommendation that the reporting threshold should be lowered to include all unions that represent private employees.

Indeed, when Congress enacted the LMRDA in 1959 through a bipartisan vote -- giving rise to the promulgation of these rules -- most unions' accounting practices were unsophisticated, and the reporting process extremely tedious, thereby justifying the \$250,000 threshold. Sixty-one years later, by contrast, even the smallest unions hire professional accountants to reconcile their books, perform audits and prepare yearly or quarterly tax documents. With the introduction of accounting software and the prevalence of dedicated and compensated union treasurers, the burden of union bookkeeping has been significantly reduced.

As unions have increasingly shifted from supporting reforms that would create more favorable wages, hours and working conditions for their members to advocating for sweeping ideological and structural changes for the nation at large, it makes sense to lower the reporting threshold to \$1,000 dollars. This reform will allow both union members and the public to track foreign transactions designed to influence the national political process.

The proposed clarification regarding trusteeship is also an important change. It will allow members to understand which labor organization exerts ultimate control over their union, and if local control has been removed, empower members to ask the right questions to understand why.

The requirement for disclosure of any officers who are being compensated by another labor organization is similarly important. It identifies conflicts of

interest and offers members a fuller understanding of how compensation is structured and to whom their leaders are answerable.

Strike fund disclosure likewise provides members with a fuller picture of their union's finances, particularly the potential availability of funds in the event of a strike (when, of course, member pay stops, but their bills do not). Without full disclosure, members may rely on financials that have been falsely inflated – and yet there is no penalty for untruthfulness. Employees should not be used simply as unwitting pawns in negotiations; they deserve to be able to make informed decisions when voting on a strike. When workers have access to accurate accounting numbers, they can both make informed choices about whether to strike and vote for fiscally appropriate payouts.

In addition, clarifying terms -- by amending the term “discover” to “aware of and/or discover” -- in order to facilitate accurate reporting of missing funds or a shortage of funds will ensure that members will not be left without redress, with their dues being embezzled, as lawyers protect criminals by relying on a technical reading of the current regulation. Introducing an obligation to report whenever there is awareness of financial irregularities will enhance accountability and deter cover ups of breaches of trust.

Furthermore, union members have a right to access their own bylaws and to a full understanding of which bylaws are operative. Requiring union leaders to post the operative bylaws – or provide members with a copy of them – is the only way to secure this right.

We support breaking “Sale of Investments and Fixed Assets” into two entries and requiring more information, enabling members more easily to identify potential conflicts of interest. We also support breaking “Purchase of Investments and Fixed Assets” into two entries, for the same reason. Creating two entries for reporting “Political Activities and Lobbying” will create a clearer picture of how dues are spent, distinguishing between candidate donations and advocating for legislation. Because members have a right to choose whether to join the union or opt out of membership, it is more important than ever for them to be able to see whether their values and priorities are in line with those of the union.

Yankee Institute supports any itemization requirements that will make LM-2s -- short or long -- easier to interpret. More itemization under the

“Representation Activities” categories enables a clearer understanding of exactly how union dues are actually being spent. Likewise, the new regulation eliminates the functional reporting of union officer time and keeps the threshold of reporting \$5,000 disbursements in the categories.

We support reducing this threshold to \$1,000 in order to ensure proper transparency.

The proposed requirement for disclosure of “indirect disbursements for travel-related expenses” is commendable, providing transparency for travel expenses that are often quietly placed on the union credit card. It is a sad fact that union members have long been on the hook for extravagant travel that is frequently hidden from proper scrutiny.

Yankee Institute likewise supports any requirement to break down in more detail the union dues structure, allowing both union members and the public to understand the real numbers the union claims to represent. Unions often lobby taxpayers to back their policy and structural preferences -- which often have a direct impact on taxes -- and a union’s influence lies in the number and type of members they represent. Therefore, those numbers, as reported, should be accurate.

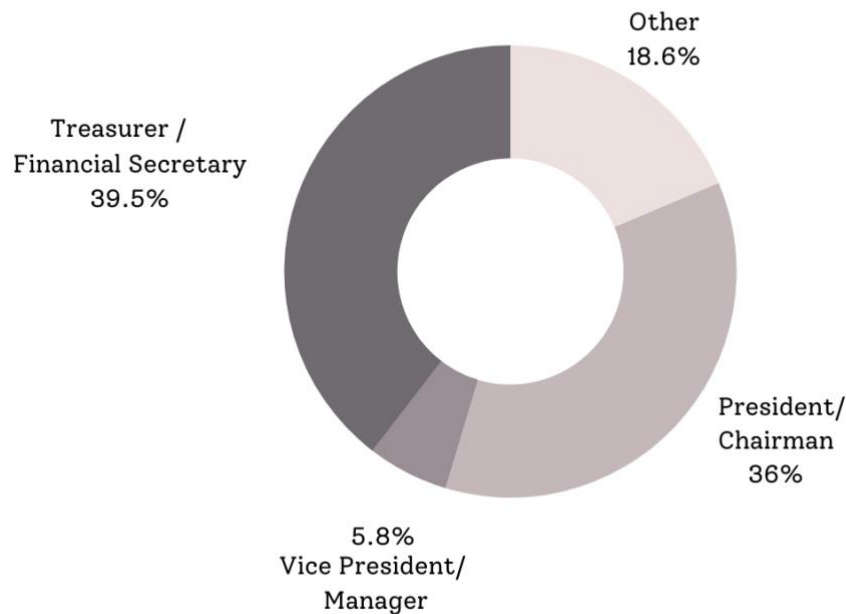
A welcome reform would be requiring creation of an itemized summary like a credit card’s “End of Year Summary.” Such a document would simply itemize purchases in an easy-to-understand format in the following categories: Retail/Merchandise, Groceries; Other/Misc; Travel/Lodging; Restaurants; Services; Gas/Automotive; and an additional page that breaks down the year in a glance by each month and totals expenses per category. There should be no threshold limit and unions could simply paste a photo of each page into the LM-2 for every card the union holds. Itemized reporting should include as many categories as possible.

It would allow any issues of potential wrongdoing or fiscal mismanagement to be addressed and resolved expeditiously. This reform alone would make a significant impact on abuse and serve as a strong deterrent to fraud.

Another significant reform would include requiring LM-2 forms to be posted on the union’s website in a readily accessible location. Most union members are unaware these public documents even exist until an issue arises.

Yankee Institute opposes any exemptions that would eliminate itemized and any other reporting requirements. No exemptions should be permitted. Indeed, the more than 80 enforcement activities resulting in indictments and prosecution just this year highlight the necessity of whistleblower policies and protections. Without them, the legislative intent of the 1959 LMRDA Act -- to protect workers by instituting accountability and transparency measures -- has not been realized.

Embezzlement, Wire Fraud, Falsifying Records Cases by Position



Data from OLMS 2020 criminal enforcement
actions

Above all, proper governance of our nation's unions requires ensuring they are free of corruption and that members can vote for leaders who share their values – in a process without even a whiff of scandal. But before elections even occur, transparency is central to members' ability to evaluate their leaders and decide whether they want to remain in the union – or whether,

instead, they want to exercise their First Amendments rights and opt out of the union altogether.

A handwritten signature in black ink, reading "Carol Platt Liebau". The script is cursive and fluid, with the first name "Carol" being the most prominent.

Carol Platt Liebau, President

A handwritten signature in black ink, reading "Meghan Portfolio". The script is cursive, with "Meghan" and "Portfolio" written in a connected, flowing style.

Meghan Portfolio, Development Manager

A handwritten signature in black ink, reading "Isabel Blank". The script is cursive, with "Isabel" and "Blank" written in a connected, flowing style.

Isabel Blank, Senior Manager